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FIRST GENERAL COUNSEL'S REPORT

CELA

MURs: 7013 / 7015

DATE COMPLAINTS FILED:

February 19, 2016; February 24, 2016

DATE OF NOTIFICATIONS:

February 25, 2016; February 29, 2016

DATE OF LAST RESPONSE: April 26, 2016

DATE ACTIVATED: July 13, 2016

EXPIRATION OF SOL: October 26, 2020

ELECTION CYCLE: 2016

COMPLAINANTS:

Citizens for Responsibility and Ethics
in Washington

Noah Bookbinder

Campaign Legal Center

Democracy 21

J. Gerald Hebert, Paul S. Ryan, Tara Malloy

RESPONDENTS:

IGX, LLC

Andrew Duncan

Conservative Solutions PAC and

Nancy H. Watkins

in her official capacity as treasurer

**RELEVANT STATUTES
AND REGULATIONS:**

52 U.S.C. §§ 30102, 30103, 30104

52 U.S.C. § 30122

11 C.F.R. § 110.1(g)

11 C.F.R. § 110.4(b)

INTERNAL REPORTS CHECKED:

Disclosure reports

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

Complainants allege that Andrew Duncan violated 52 U.S.C. § 30122 by contributing \$500,000 in the name of IGX, LLC ("IGX") to Conservative Solutions PAC ("CSPAC"), an independent-expenditure-only political committee. Complainants also allege that IGX

1 knowingly permitted its name to be used to make, and CSPAC may have knowingly accepted,
2 the contribution in the name of another, and that IGX failed to register and report as a political
3 committee as required.

4 For the reasons discussed below, we recommend that the Commission find no reason to
5 believe that the Respondents violated the Federal Election Campaign Act of 1971, as amended
6 ("Act"), or the Commission's regulations.

7 II. FACTUAL BACKGROUND

8 A. Respondents

9 IGX, LLC is a limited liability company formed in Delaware on May 13, 2015.¹ IGX
10 was reported as making a \$500,000 contribution to CSPAC on October 26, 2015.²

11 Andrew Duncan is the CEO of IGX, LLC and is also "the member/owner" of the LLC.³
12 Duncan, who is also the CEO of a film production company called June Pictures, describes IGX
13 as an investment vehicle for entertainment and technology projects.⁴ He claims that his
14 "employment with IGX is publicly known," citing a disclosure report filed with the Commission
15 disclosing Duncan's personal contribution to Marco Rubio's authorized committee.⁵

16 Conservative Solutions PAC ("CSPAC") is an independent-expenditure-only committee
17 that registered with the Commission on February 4, 2013. Nancy Watkins is its treasurer of

¹ "IGX LLC" Dun & Bradstreet Report. IGX's registered agent is the Corporation Service Company located at 2711 Centerville Rd., Suite 400, Wilmington, DE, 19808; that address is provided on CSPAC's report disclosing the IGX contribution to the Commission.

² CSPAC, 2015 Year-End Report at 26 (Jan. 31, 2016).

³ Duncan Resp. at 2 (Apr. 26, 2016).

⁴ See *id.*; Patrick Hipes, June Pictures Boards 'Tangerine' Director Sean Baker's Next Film 'The Florida Project', DEADLINE HOLLYWOOD, <http://deadline.com/2016/04/sean-baker-the-florida-project-movie-june-pictures-tangerine-1201740114> (Apr. 19, 2016).

⁵ Duncan Resp. at 2; see Marco Rubio for President, Amended 2015 October Quarterly Report at 736 (Oct. 30, 2015).

1 record. During the 2016 election cycle, CSPAC has received over \$60 million in contributions
2 and made over \$55 million in independent expenditures supporting Marco Rubio or opposing
3 Rubio's opponents in the 2016 presidential election.⁶ CSPAC reported receiving a \$500,000
4 contribution from IGX on October 26, 2015.⁷

5 **B. The Complaint and Response**

6 The Complaint in MUR 7013 alleges that Duncan, IGX, CSPAC and Nancy Watkins as
7 treasurer (collectively, "Respondents") violated 52 U.S.C. § 30122, by making, facilitating, and
8 knowingly accepting, respectively, a contribution in the name of another when IGX made a
9 \$500,000 contribution to CSPAC on October 26, 2015.⁸ The complaint alleges that Duncan,
10 IGX's CEO, told the Associated Press ("AP") that he used that entity to mask the CSPAC
11 contribution because he funds human rights work in China and was concerned about reprisals.⁹

12 The Complaint in MUR 7015, which cites the same AP article, also alleges that Duncan
13 and IGX violated Section 30122 of the Act,¹⁰ and additionally claims that Duncan and IGX

⁶ See, e.g., 24/48 Hour Independent Expenditure Report ("IE Report") Mar. 11, 2016 (supporting Marco Rubio); IE Report, Feb. 16, 2016 (opposing Jeb Bush).

⁷ CSPAC, 2015 Year-End Report at 26 (Jan. 31, 2016).

⁸ MUR 7013 Compl. at 6–7 (Feb. 19, 2016).

⁹ *Id.* at 4–5 (citing Jack Gillum, *et al.*, Big Bucks, Shadowy Companies: Election Mystery Money Returns, ASSOC. PRESS (Feb. 3, 2016), <http://elections.ap.org/content/big-bucks-shadowy-companies-election-mystery-money-returns> ("The largest, obfuscated super PAC donation was \$500,000, which came from an unknown "IGX LLC" to the Rubio-aligned Conservative Solutions. The AP discovered the contribution came from self-described investor and IGX owner Andrew Duncan of Brooklyn, New York, whose firm was listed in a prior Rubio donation. . . . Duncan, who said he worked as a technology executive and has invested in several film productions, *acknowledged he was the source of the super PAC donation in emails Tuesday to the AP.* Duncan, who funds human-rights efforts in China, said he admired Rubio's work on the issue and *had used IGX to mask the donation because he was worried about reprisals.*") (emphasis added)). The complaint additionally notes that Duncan hosted a fundraiser for Rubio in October 2015, appears on Rubio's campaign website on a fundraiser invitation, and contributed to Rubio's authorized committee in his own name in July 2015. *Id.* at 5–6.

¹⁰ See MUR 7015 Compl. at 2, 4 (Feb. 24, 2016) (citing Gillum, *et al.*, *supra*).

1 violated 52 U.S.C. §§ 30102, 30103, 30104 for failing to register and report as a political
2 committee despite meeting the statutory threshold for committee status.¹¹

3 Duncan's Response argues that IGX, not Duncan personally, made a legal contribution to
4 CSPAC, and the LLC was properly disclosed as the true contributor.¹² Duncan avers that IGX
5 was formed on May 13, 2015, as an investment vehicle for entertainment and technology
6 projects, not for any political purpose.¹³ The LLC was therefore formed over five months prior
7 to making the \$500,000 contribution to CSPAC.¹⁴ Duncan notes that he is "the member/owner"
8 of IGX and is employed by the LLC, and that he publicly disclosed IGX as his employer.¹⁵

9 Duncan flatly rejects the claim that he acknowledged making the CSPAC contribution
10 through IGX to conceal his identity because he feared reprisals; he contends that the AP article
11 included a "false statement" that was "written by the reporter and was not a quote from or
12 directly attributed" to him.¹⁶ After the complaints in this matter were filed, Duncan reportedly
13 gave a press interview in which he denied trying to mask the contribution by using IGX as a
14 conduit.¹⁷ Duncan also contends that it would be "manifestly unfair" to analyze the IGX

¹¹ *Id.* at 5-7.

¹² Duncan Resp. at 4.

¹³ *Id.* at 2.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* (citing Alex Leary, Jeb Bush, Marco Rubio Pushed Boundaries of Campaign Finance With Unlimited Donations, Secrecy, TAMPA BAY TIMES (Apr. 8, 2016), <http://www.tampabay.com/news/politics/stateroundup/jeb-bush-marco-rubio-pushed-boundaries-of-campaign-finance-with-unlimited/2272444> ("The AP reported that Andrew Duncan said he "used IGX to mask the donation because he was worried about reprisals" over his work highlighting human rights abuses in China. In an interview with the Tampa Bay Times, Duncan said he is "cognizant" about China but said IGX was established for a movie project. Duncan said he gave to Rubio because of Rubio's work to highlight human rights issues. 'In no way was I trying to mask this contribution.'"))).

1 contribution under Section 30122 of the Act, quoting the recent statement of reasons addressing
2 LLC contributions to independent-expenditure-only committees.¹⁸

3 IGX has not filed a separate Response in this matter.

4 CSPAC filed a Response on April 19, 2016, denying the allegation that it violated the law
5 by knowingly accepting a contribution in the name of another.¹⁹ CSPAC acknowledges
6 receiving a \$500,000 contribution from IGX, but denies that there is any evidence suggesting
7 that IGX was not the source of the funds that it gave to the committee.²⁰ CSPAC contends that
8 the Commission has failed to provide revised guidance, in light of the *Citizens United* and
9 *SpeechNOW* decisions, regarding how to review and report contributions from LLCs.²¹ In sum,
10 CSPAC claims the IGX contribution was legal and properly reported as a contribution from the
11 entity.²² CSPAC's Response also attaches a sworn affidavit from Nancy Watkins, CSPAC's
12 treasurer, in which she avers that she had no reason to think that the IGX contribution came from
13 any other source, and therefore believes that the reporting of that contribution was proper.²³

¹⁸ *Id.* at 4 (quoting Statement of Reasons of Chairman Matthew S. Petersen and Commissioners Caroline C. Hunter and Lee E. Goodman at 8, MUR 6485 (W Spann LLC, *et al.*), MURs 6487/6488 (F8, LLC, *et al.*), MUR 6711 (Specialty Investment Group, Inc., *et al.*), MUR 6930 (SPM Holdings LLC, *et al.*) (Apr. 1, 2016) ("LLC SOR") ("[P]ursuing enforcement against the Respondents in these matters would be manifestly unfair because Commission precedent does not provide adequate notice regarding the application of section 30122 to closely held corporations and corporate LLCs or the proper standards for its application.")).

¹⁹ CSPAC Resp. at 1 (Apr. 19, 2016).

²⁰ *Id.* at 2.

²¹ *Id.* at 3–4; see *Citizens United v. FEC*, 558 U.S. 310 (2010); *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010).

²² *Id.* at 6.

²³ Affidavit of Nancy Watkins ("Watkins Affidavit") ¶ 14..

III. FACTUAL AND LEGAL ANALYSIS

A. Contributions in the Name of Another

1. Legal Standard

The Act provides that a contribution includes “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.”²⁴ The term “person” for purposes of the Act and Commission regulations includes partnerships, corporations, and “any other organization or group of persons.”²⁵ The Act prohibits a person from making a contribution in the name of another person, knowingly permitting his or her name to be used to effect such a contribution, or knowingly accepting such a contribution.²⁶ The Commission has included in its regulations illustrations of activities that constitute making a contribution in the name of another:

- (i) Giving money or anything of value, all or part of which was provided to the contributor by another person (the true contributor) without disclosing the source of money or the thing of value to the recipient candidate or committee at the time the contribution is made; or
- (ii) Making a contribution of money or anything of value and attributing as the source of the money or thing of value another person when in fact the contributor is the source.²⁷

²⁴ 52 U.S.C. § 30101(8)(A).

²⁵ *Id.* § 30101(11); 11 C.F.R. § 100.10. To promote the limits on the amount that any one person may contribute to a candidate in a given election cycle, the Act directs that “all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate.” 52 U.S.C. § 30116(a)(8). The Commission has implemented that provision through its earmarking regulation. *See* 11 C.F.R. § 110.6. Like the statutory provision it implements, the regulation applies only to “contributions by a person made on behalf of or to a candidate.” *Id.* By their terms, neither the earmarking provision of the Act nor the Commission’s implementing regulation reaches contributions made to independent-expenditure-only political committees, as implicated in this matter.

²⁶ 52 U.S.C. § 30122.

²⁷ 11 C.F.R. § 110.4(b)(2)(i)–(ii). *See* First Gen. Counsel’s Report, MUR 6930 (Prakazrel “Pras” Michel, *et al.*). In MUR 6930, we concluded that the record, considered as a whole, indicated that the LLC, not the individual who owned and operated it, functioned as the true source of the contributed funds, because (1) the LLC was created

1 The requirement that a contribution be made in the name of its true source promotes
2 Congress's objective of ensuring the complete and accurate disclosure by candidates and
3 committees of the political contributions they receive.²⁸ Courts therefore have uniformly
4 rejected the assertion that "only the person who actually transmits funds . . . makes the
5 contribution,"²⁹ recognizing that "it is implausible that Congress, in seeking to promote
6 transparency, would have understood the relevant contributor to be [an] intermediary who
7 merely transmitted the campaign gift."³⁰ Consequently, both the Act and the Commission's
8 implementing regulations provide that a person who furnishes another with funds for the purpose
9 of contributing to a candidate or committee "makes" the resulting contribution.³¹ This is true
10 whether funds are advanced to another person to make a contribution in that person's name or

and used primarily for business purposes, not to make political contributions; (2) the contributions were funded with the proceeds of the LLC's operations and investments, not a transfer of funds from the owner's personal accounts; and (3) the owner did not seek to use the LLC to evade the Act's disclosure requirements. Accordingly, we recommended that the Commission find no reason to believe that Respondents violated § 30122. The Commission was equally divided on that issue, however, and closed the file. *See* Certification, MUR 6930 (Prakazrel "Pras" Michel, *et al.*) (Feb. 25, 2016). The Commission could not reach a decision on this issue in several other closed matters involving LLC contributions to independent-expenditure-only committees. *See* Certification, MUR 6485 (W Spann LLC, *et al.*) (Feb. 25, 2016); Certification, MUR 6487/6488 (F8 LLC, *et al.*) (Feb. 24, 2016); Certification, MUR 6711 (Specialty Investment Group, *et al.*) (Feb. 24, 2016).

²⁸ *United States v. O'Donnell*, 608 F.3d 546, 553 (9th Cir. 2010) ("[T]he congressional purpose behind [Section 30122] — to ensure the *complete and accurate disclosure* of the contributors who finance federal elections — is plain.") (emphasis added); *Mariani v. United States*, 212 F.3d 761, 775 (3d Cir. 2000) (rejecting constitutional challenge to Section 30122 in light of compelling governmental interest in disclosure).

²⁹ *United States v. Boender*, 649 F.3d 650, 660 (7th Cir. 2011):

³⁰ *O'Donnell*, 608 F.3d at 554; *see also* *Citizens United v. FEC*, 558 U.S. 310, 371 (2010) ("The First Amendment protects political speech; and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages."); *Doe v. Reed*, 561 U.S. 186, 199 (2010) ("Public disclosure also promotes transparency and accountability in the electoral process to an extent other measures cannot.").

³¹ *See Boender*, 649 F.3d at 660 (holding that to determine who made a contribution "we consider the giver to be the *source* of the gift, not any intermediary who simply conveys the gift from the donor to the donee." (emphasis added)); *O'Donnell*, 608 F.3d at 550; *Goland v. United States*, 903 F.2d 1247, 1251 (9th Cir. 1990) ("The Act prohibits the use of 'conduits' to circumvent . . . [the Act's reporting] restrictions." (quoting then-Section 441f)).

1 promised as reimbursement of a solicited contribution.³² Because the concern of the law is the
2 true source from which a contribution to a candidate or committee originates, we look to the
3 structure of the transaction itself and the arrangement between the parties to determine who in
4 fact "made" a given contribution.³³

5 2. There is No Reason to Believe that Duncan Made a Contribution in the
6 Name of IGX in Violation of Section 30122 of the Act

7 The factual record, viewed as a whole, does not support a finding that IGX was not the
8 true source of the contribution to CSPAC under Section 30122 of the Act, or that Duncan was, in
9 fact, the true contributor. In making the allegations, the complaints rely primarily on statements
10 Duncan reportedly made by email to an AP reporter acknowledging that he was the source of the
11 IGX contribution and admitting that he tried to mask his identity by contributing through an LLC
12 because he feared reprisals.³⁴ Duncan, however, explicitly denies making any such statements.³⁵

³² *O'Donnell*, 608 F.3d at 555. Moreover, the "key issue . . . is the *source* of the funds" and, therefore, the legal status of the funds when conveyed from a conduit to the ultimate recipient is "irrelevant to a determination of who 'made' the contribution for the purposes of [Section 30122]." *United States v. Whittemore*, 776 F.3d 1074, 1080 (9th Cir. 2015) (holding that defendant's "unconditional gifts" to relatives and employees, along with suggestion they contribute the funds to a specific political committee, violated Section 30122 because the source of the funds remained the individual who provided them to the putative contributors).

³³ As the court in *O'Donnell* acknowledged, the Commission's earmarking regulations require the entire amount of a contribution to be attributed to both the actual source and the intermediary if the intermediary also exercises direction and control "over the choice of the recipient candidate." 11 C.F.R. § 110.6(d); *O'Donnell*, 608 F.3d at 550 n.2. Those regulations, however, do not apply to contributions made to an independent-expenditure-only political committee.

³⁴ See MUR 7013 Compl. at 5; MUR 7015 Compl. at 4. The news article provided: "Duncan, who said he worked as a technology executive and has invested in several film productions, *acknowledged he was the source of the super PAC donation in emails Tuesday to the AP*. Duncan, who funds human-rights efforts in China, said he admired Rubio's work on the issue and *had used IGX to mask the donation because he was worried about reprisals*." Gillum, *supra*.

³⁵ "The Complaint is predicated strictly upon an Associated Press story that was then repeated by other media reports that included the false statement that Respondent 'had used IGX to mask the donation because he was worried about reprisals' — a statement that was written by the reporter and was not a quote from or directly attributed to Respondent. At no time did Respondent state or suggest to the media that the true source of the contribution from IGX, LLC was from anyone or any entity other than IGX, LLC — as indeed that was the case." Duncan Resp. at 2.

1 Further, the AP article does not directly quote Duncan even though it asserts that Duncan made
2 these statements in writing in an email. Duncan contends that the comments attributed to him
3 were "written by the reporter" and that he neither stated nor suggested that the contribution was
4 from anyone other than IGX. Moreover, he "clarified on the record," *i.e.*, by giving an interview
5 to another news outlet, that he was not trying to mask the contribution by making it through an
6 entity.³⁶ There are therefore two conflicting accounts of what Duncan said regarding the
7 provenance of the funds contributed to CSPAC, neither of which appear to be corroborated. As
8 such, this information does not provide a basis to conclude that Duncan actually acknowledged
9 that he was the "true source" or admitted trying to mask his identity.

10 Aside from the alleged admission in the news article, the complaints provide no other
11 evidence that tends to support the allegation that Duncan made, and IGX knowingly facilitated, a
12 contribution in the name of another. Further, circumstantial facts in the record support the
13 argument that IGX made a contribution in its own name, as permitted under prevailing law. IGX
14 was formed over five months before it made the contribution at issue, and it appears to have been
15 created and used as an investment vehicle: For example, IGX funded June Pictures, a film
16 production company led by Duncan, and June Pictures, in turn, appears to be actively financing
17 film projects.³⁷ Moreover, IGX is apparently still in operation, *i.e.*, it was not a "pop up" LLC

³⁶ Duncan Resp. at 2; *see* Leary, *et al.*, *supra* ("The AP reported that Andrew Duncan said he "used IGX to mask the donation because he was worried about reprisals" over his work highlighting human rights abuses in China. In an interview with the Tampa Bay Times, Duncan said he is "cognizant" about China but said IGX was established for a movie project. Duncan said he gave to Rubio because of Rubio's work to highlight human rights issues. 'In no way was I trying to mask this contribution.'").

³⁷ *See* Mike Fleming Jr., Olivia Cooke, Anya Taylor-Joy & Anton Yelchin Set For Thriller 'Thoroughbred', DEADLINE HOLLYWOOD (Apr. 27, 2016), <http://deadline.com/2016/04/olivia-cooke-anya-taylor-joy-anton-yelchin-thoroughbred-psychological-thriller-1201745650> ("June Pictures, which [Andrew] Duncan and [Alex] Saks launched as a portfolio company of IGX LLC, previously set a summer start date for *The Florida Project*, which marks *Tangerine* helmer Sean Baker's next film[.]"); Hipes, *supra* ("June Pictures has come aboard to produce and finance Sean Baker's *The Florida Project*, [which] is the second film attached to Andrew Duncan and Alex Saks' production outfit June Pictures[.]"); Anita Busch, The Orchard Acquires SXSW Title 'Operator' For North America

1 that was created to make a political contribution and then dissolved.³⁸ Viewed as a whole, these
2 facts indicate that IGX was formed and used as an ongoing business enterprise, and suggest that
3 IGX may have had the financial ability to make the contribution at issue without an infusion of
4 outside funds provided to it for that purpose.³⁹

5 Finally, any argument that Duncan used IGX to mask his identity when contributing to
6 CSPAC to evade disclosure requirements is undermined by previous public disclosures of his
7 affiliation with IGX. When Duncan made a contribution in his own name to Rubio's campaign
8 committee on July 21, 2015 — only three months prior to IGX's contribution to CSPAC — he
9 disclosed that he was the CEO of IGX.⁴⁰ Moreover, the press linked Duncan to IGX in
10 discussing his work as cofounder and CEO of June Pictures, a company owned by IGX.⁴¹ The
11 fact that Duncan self-disclosed his ties to IGX, and was publicly linked to IGX, undermines the

& UK, DEADLINE HOLLYWOOD (May 25, 2016), <http://deadline.com/2016/05/operator-sxsw-movie-acquired-by-the-orchard-distribution-1201762670> (“[Operator] is a production of Andrew Duncan’s June Pictures, an IGX Company (*i.e.* the film . . . was financed by June Pictures).”).

³⁸ Cf. First Gen. Counsel’s Report at 4–5, MUR 6485 (W Spann LLC) (“W Spann [LLC] was formed on March 15, 2011. [Its owner] Conard states that he authorized W Spann to make the “donation” to [Restore Our Future] on April 28, 2011. . . . [and he] dissolved W Spann in May 2011.”).

³⁹ See First Gen. Counsel’s Report at 9, MUR 6930 (Prakazrel “Pras” Michel) (noting that because the owner of a single-member LLC “created and operated” the LLC “for purposes other than to influence an election by making contributions[,]” the LLC “was not merely a ministerial conduit or vehicle for transferring [the owner’s] contributions; it was an active business entity[.]”).

⁴⁰ See Marco Rubio for President, Amended 2015 October Quarterly Report at 736 (Oct. 30, 2015). Aside from contributing to his campaign, Duncan supported Rubio, the candidate that CSPAC most actively supports, in other ways. As the MUR 7013 Complaint points out, Duncan’s name appeared on Rubio’s campaign website and he was part of a committee that hosted a Rubio campaign fundraiser on October 14, 2015, twelve days before the \$500,000 contribution to CSPAC. See MUR 7013 Compl. at 5–6; Ex. H, I.

⁴¹ See Fleming Jr., *supra* (indicating that Duncan “launched” June Pictures “as a portfolio company of IGX LLC”); Busch, *supra* (referring to “Andrew Duncan’s June Pictures, an IGX Company”).

1 claim that he provided funds to IGX for it to make a contribution while masking his identity as
2 the true contributor.⁴²

3 We acknowledge that the facts here could still be viewed as suggestive and that the
4 record does not definitively establish that IGX was, in fact, the true source of the funds
5 contributed to CSPAC. By contrast, in MUR 6930, the owner of a single-member LLC that
6 made contributions to an independent-expenditure-only committee provided a sworn statement
7 averring that he never transferred his personal funds to the LLC for it to make political
8 contributions.⁴³ Duncan has not provided a similar sworn statement here. Nonetheless, he has
9 denied making the purported admission that appeared in the AP news article, both in a
10 subsequent press article and in his Response, and that alleged statement provided the sole basis
11 for the allegations raised in the complaints. Moreover, the balance of the record does not support
12 those allegations. Accordingly, under these circumstances, we recommend that the Commission
13 find no reason to believe that Andrew Duncan and IGX, LLC violated 52 U.S.C. § 30122.

14 3. There is No Reason to Believe that CSPAC Knowingly Accepted a
15 Contribution in the Name of Another

16 The complaint in MUR 7013 alleges that CSPAC may have knowingly accepted a
17 contribution in the name of another, but there is no factual support in the record for that
18 allegation. There is no evidence that CSPAC was in contact with Duncan or IGX, or that
19 CSPAC had any reasonable basis to suspect that the IGX contribution was made in the name of

⁴² See First Gen. Counsel's Report at 8, MUR 6930 (Prakazrel "Pras" Michel) (concluding that the owner of a single-member LLC had not attempted to evade the Act's disclosure requirements by contributing to a Super PAC through his entity where he had publicly acknowledged his ownership of that LLC, and had made contributions to the same committee in his own name during the same election cycle). Here, Duncan "revealed his connection to IGX LLC by identifying himself as the company's CEO in connection with his contribution to Sen. Rubio's presidential campaign committee.

⁴³ See First Gen. Counsel's Report at 8, MUR 6930 (Prakazrel "Pras" Michel).

1 another. Moreover, CSPAC has denied the allegation that it knew, or had any reason to suspect,
2 that the IGX contribution was made in the name of another.⁴⁴ On this record, therefore, we
3 recommend that the Commission find no reason to believe that Conservative Solutions PAC and
4 Nancy H. Watkins in her official capacity as treasurer violated 52 U.S.C. § 30122.

5 **B. Political Committee Status**

6 1. Legal Standard

7 The Act defines a political committee as “any committee, club, association, or other
8 group of persons” that receives aggregate contributions or makes aggregate expenditures in
9 excess of \$1,000 during a calendar year.⁴⁵ Notwithstanding the threshold for contributions and
10 expenditures, an organization will be considered a political committee only if its “major purpose
11 is Federal campaign activity (*i.e.*, the nomination or election of a Federal candidate).”⁴⁶ Political
12 committees are required to register with the Commission, meet organizational and recordkeeping
13 requirements, and file periodic disclosure reports.⁴⁷

14 2. There is No Reason to Believe that IGX was Required to Register and
15 Report as a Political Committee

16 Although the facts in this matter indicate that IGX met the statutory threshold for political
17 committee status, *i.e.*, that it made aggregate contributions or aggregate expenditures in excess of
18 \$1,000 during a calendar year, the record does not indicate that the LLC had a “major purpose”

⁴⁴ CSPAC notes that it has received numerous contributions from LLCs, partnerships, or other entities, which are permitted under prevailing law, and that these entity contributions comprised 30% of its itemized contributions during the relevant reporting period. See CSPAC Resp. at 2; Watkins Affidavit ¶ 14.

⁴⁵ 52 U.S.C. § 30101(4)(A).

⁴⁶ Political Committee Status: Supplemental Explanation and Justification, 72 Fed. Reg. 5595, 5597 (Feb. 7, 2007); see *Buckley v. Valeo*, 424 U.S. 1, 79 (1976); *FEC v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238, 262 (1986).

⁴⁷ See 52 U.S.C. §§ 30102, 30103, 30104.


1 of nominating or electing Federal candidates. Instead, the available record indicates that IGX
2 was formed for the primary purpose of making investments, *e.g.*, financing entertainment
3 ventures, and it made a one-time political contribution to an independent-expenditure-only
4 committee. Accordingly, we recommend that the Commission find no reason to believe that
5 IGX, LLC violated 52 U.S.C. §§ 30102, 30103, 30104.

6 **IV. RECOMMENDATIONS**


- 7 1. Find no reason to believe that IGX, LLC, Andrew Duncan, and Conservative
8 Solutions PAC and Nancy H. Watkins in her official capacity as treasurer violated
9 52 U.S.C. § 30122;
- 10 2. Find no reason to believe that IGX, LLC violated 52 U.S.C. §§ 30102, 30103, 30104;
- 11 3. Approve the attached Factual and Legal Analyses;
- 12 4. Approve the appropriate letters; and

1 5. Close the file.

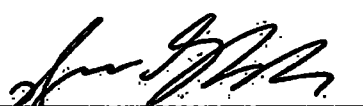
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